

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Science and Technology Reinvention Laboratory Personnel

Demonstration Project

AGENCY: Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), Department of Defense (DoD).

ACTION: This notice provides a new authority to all Science and Technology Reinvention Laboratory (STRL) Personnel Demonstration Projects.

SUMMARY: STRLs with published demonstration project plans may implement the flexibility of a supplemental pay provision based on criteria as defined by the STRL director.

DATES: This proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final Federal Register Notice (FRN) is published. To be considered, written comments must be submitted on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number, and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at

<http://www.regulations.gov> as they are received, without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Department of Defense:

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Department of the Army:

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- Technical Center, Space and Missile Defense Command: Dr. Chad Marshall, 256-955-5697, Chad.J.Marshall.civ@army.mil.

Department of the Navy:

- Naval Air Warfare Center, Weapons Division and Aircraft Division: Mr. Richard Cracraft, 760-939-8115, Richard.A.Cracraft2.civ@us.navy.mil.
- Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center: Ms. Lori Leigh, 805-901-5917, Lori.A.Leigh@us.navy.mil.
- Naval Information Warfare Centers:
 - Naval Information Warfare Center Atlantic: Mr. Michael Gagnon, 843-218-3871, Michael.L.Gagnon2.civ@us.navy.mil.
 - Naval Information Warfare Center Pacific: Ms. Angela Hanson, 619-553-0833, Angela.Y.Hanson.civ@us.navy.mil.
- Naval Medical Research Center: Dr. Jill Phan, 301-319-7645, Jill.C.Phan.civ@mail.mil.
- Naval Research Laboratory: Ms. Ginger Kisamore, 202-767-3792, Ginger.Kisamore@nrl.navy.mil.

- Naval Sea Systems Command Warfare Centers: Ms. Diane Brown, 215-897-1619,
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- Office of Naval Research: Ms. Margaret J. Mitchell, 703-588-2364,
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SUPPLEMENTARY INFORMATION:

1. Background

Title 10 United States Code (U.S.C.) 4121 authorizes the Secretary of Defense, through OUSD(R&E), to exercise the authorities granted to the Office of Personnel Management (OPM) under 5 U.S.C. 4703 to conduct personnel demonstration projects at DoD laboratories designated as STRLs. All STRLs authorized pursuant to 10 U.S.C. 4121 may use the provisions described in this FRN. STRLs implementing these flexibilities must have an approved personnel demonstration project plan published in an FRN and must fulfill any collective bargaining obligations. Each STRL will establish internal operating procedures as appropriate.

The 21 current STRLs are:

- Air Force Research Laboratory
- Joint Warfare Analysis Center
- Army Futures Command
- Army Research Institute for the Behavioral and Social Sciences
- U.S. Army Combat Capabilities Development Command's Armaments Center
- U.S. Army Combat Capabilities Development Command's Army Research Laboratory
- U.S. Army Combat Capabilities Development Command's Aviation and Missile Center
- U.S. Army Combat Capabilities Development Command's Chemical Biological Center
- U.S. Army Combat Capabilities Development Command's Command, Control,
Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center
- U.S. Army Combat Capabilities Development Command's Ground Vehicle Systems Center
- U.S. Army Combat Capabilities Development Command's Soldier Center

- U.S. Army Engineer Research and Development Center
- U.S. Army Medical Research and Development Command
- U.S. Army Space and Missile Defense Command's Technical Center
- Naval Air Systems Command Warfare Centers
- Naval Facilities Engineering Command Systems Engineering and Expeditionary Warfare Center
- Naval Information Warfare Centers, Atlantic and Pacific
- Naval Medical Research Center
- Naval Research Laboratory
- Naval Sea Systems Command Warfare Centers
- Office of Naval Research

2. Overview

I. Introduction

A. Purpose

Some STRLs have adopted supplemental pay flexibilities that are based on the OPM special salary rate tables that provide for higher salaries than the General Schedule (GS) tables. This supplemental pay flexibility permits STRLs to independently establish supplemental pay rates based on market conditions to help STRLs attract, recruit, and retain a high caliber workforce. Competing with private sector compensation is particularly challenging, especially in emerging mission areas such as hypersonics, autonomy, cybersecurity, and data science. This flexibility may not be used in conjunction with any statutory enhanced pay authority, such as the pay authority for Senior Scientific Technical Managers in 10 U.S.C. 4091, or the pay authority for Experts in Science and Engineering in 10 U.S.C. 4092.

B. Required Waivers to Law and Regulation

Waivers and adaptations of certain title 5 U.S.C. and title 5 Code of Federal Regulations (CFR) provisions are required only to the extent that these statutory and regulatory provisions limit or are inconsistent with the actions authorized under these demonstration projects. Title 10 U.S.C.

4121(a)(5) states that the limitations on pay fixed by administrative action in 5 U.S.C 5373 do not apply to the STRL demonstration project authority to prescribe salary schedules and other related benefits. Appendix A lists waivers needed to enact authorities described in this FRN. Nothing in this plan is intended to preclude the STRLs from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this FRN.

C. Participating Organizations and Employees

All DoD laboratories designated as STRLs pursuant to 10 U.S.C. 4121 with approved personnel demonstration project plans published in FRNs may use the provisions described in this FRN.

II. Personnel System Changes

A. Description and Implementation

STRL directors may establish supplemental pay rates to be paid bi-weekly, as other pay, for those positions which warrant higher compensation than that provided by the established broadband salary ranges, STRL staffing supplements or differentials, or other recruitment or retention authorities. The STRL director may establish supplemental pay rates by occupational series, specialty, competency, broadband level, and/or geographical area. In establishing such rates, the STRL director may consider: rates of pay offered by non-Federal or other alternative pay system employers that are considerably higher than rates payable by the STRL; the remoteness of the area or location involved; the undesirability of the working conditions or nature of the work involved; evidence that the position is of such a specialized nature that very few candidates exist; numbers of existing vacant positions and the length of time vacant; numbers of employees who have voluntarily left positions; evidence to support a conclusion that recruitment or retention problems likely will develop (if such problems do not already exist) or will worsen; consideration of use of other pay flexibilities as well as the use of non-pay solutions; or any other circumstances the STRL director considers appropriate. Documentation of the determination will be maintained by the STRL.

This supplemental pay is in addition to any other pay, such as locality-based comparability payments authorized under 5 U.S.C. 5304 and may result in compensation above Level IV of the Executive Schedule but may not exceed Level I of the Executive Schedule.

An established total salary including supplemental pay is considered basic pay for the same purposes as a locality rate under 5 CFR 531.606(b) (i.e., for purposes of retirement, life insurance, premium pay, severance pay and advances in pay). It will also be used to compute worker's compensation payments and lump-sum payments for accrued and accumulated annual leave.

The STRL director has an ongoing responsibility to evaluate the need for continuing payment of the supplemental pay and shall terminate or reduce the amount if conditions warrant. Conditions to be considered are: changes in labor-market factors; the need for the services or skills of the employee has reduced to a level that makes it unnecessary to continue payment at the current level; or budgetary considerations make it difficult to continue payment at the current level. The reduction or termination of the payment is not considered an adverse action and may not be appealed or grieved. The applicant or employee will sign a statement of understanding outlining that the supplement may be reduced or terminated at any time based on conditions as determined by the STRL director. The documentation of the determination will be maintained by the STRL.

B. Evaluation

Procedures for evaluating this authority will be incorporated into the STRL demonstration project evaluation processes conducted by the STRLs, OUSD(R&E), or Component headquarters, as appropriate.

C. Reports

STRLs will track and provide information and data on the use of this authority when requested by the Component headquarters or OUSD(R&E).

Dated: May 4, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer,

Department of Defense.

III. Required Waivers to Law and Regulations

Appendix A. Waivers to Title 5, U.S.C.

<u>Title 5, United States Code</u>	<u>Title 5, Code of Federal Regulations</u>
5 U.S.C. 5303(f) – Annual Adjustments to pay schedules. Waived to allow pay (disregarding comparability pay) to exceed level V of the Executive Schedule.	5 CFR Part 530, subpart B – Aggregate Limitation on Pay. Waived in its entirety to allow STRL director to authorize supplemental pay as defined in this FRN.
5 U.S.C. 5304(g)(1) – Locality-based comparability payments. Waived to allow pay in excess of level IV of the Executive Schedule.	5 CFR Part 530.203 – Administration of aggregate limitation on pay. Waived to allow pay and allowances, differentials, bonuses, awards, or other similar cash payments, including supplemental pay in excess of level I of the Executive Schedule.
5 U.S.C. 5304(h)(1)(D) – Locality-based comparability payments. Waived to allow pay in excess of level IV of the Executive Schedule.	5 CFR Part 531.606(a) – Maximum limits on locality rates. Waived to allow pay in excess of level IV of the Executive Schedule.
5 U.S.C. 5305 – Special Pay Authority. Waived in its entirety as to allow the STRL director to establish supplemental pay and to allow pay in excess of level IV of the Executive Schedule.	5 CFR Part 531.606(b)(3) – Maximum limits on locality rates. Waived to allow pay in excess of level IV of the Executive Schedule.

<p>5 U.S.C. 5307 – Limitation on certain payments. Waived to allow pay and allowances, differentials, bonuses, awards, or other similar cash payments, including supplemental pay in excess of Level I of the Executive Schedule.</p>	<p>5 CFR Part 531.608 – Relationship of locality rates to other pay rates. Waived to apply the provisions of this FRN.</p>
<p>5 U.S.C. 5373 – Limitation on pay fixed by administrative action. Waived to the extent necessary to allow basic pay and supplemental pay to exceed level IV of the Executive Schedule.</p>	<p>5 CFR Part 531.610(a), (b), (c), (d), (e) – Treatment of locality rate as basic pay. Waived to the extent to allow other pay to be considered as basic pay for purposes of the provisions of this FRN.</p>
<p>5 U.S.C. 5547 – Limitation on premium pay. Waived to the extent necessary to allow basic pay and supplemental pay to exceed level IV of the Executive Schedule.</p>	<p>5 CFR Part 550.105 – Premium Pay Biweekly maximum earnings limitation. Waived to the extent necessary to allow basic pay and supplemental pay to exceed level IV of the Executive Schedule.</p>

Appendix B. Authorized STRLs and Federal Register Notices

STRL	Federal Register Notice
Air Force Research Laboratory	61 FR 60400 amended by 75 FR 53076
Joint Warfare Analysis Center	85 FR 29414
Army Futures Command	Not yet published
Army Research Institute for Behavioral and Social Sciences	85 FR 76038
U.S. Army Combat Capabilities Development Command's Armaments Center	76 FR 3744
U.S. Army Combat Capabilities Development Command's Army Research Laboratory	63 FR 10680
U.S. Army Combat Capabilities Development Command's Aviation and Missile Center	62 FR 34906 and 62 FR 34876 amended by 65 FR 53142 (AVRDEC and AMRDEC merged)
U.S. Army Combat Capabilities Development Command's Chemical Biological Center	74 FR 68936
U.S. Army Combat Capabilities Development Command's Command, Control, Communications, Cyber, Intelligence, Surveillance, and Reconnaissance Center	66 FR 54872
U.S. Army Combat Capabilities Development Command's Ground Vehicle Systems Center	76 FR 12508
U.S. Army Combat Capabilities Development Command's Soldier Center	74 FR 68448
U.S. Army Engineer Research and Development Center	63 FR 14580 amended by 65 FR 32135
U.S. Army Medical Research and Development Command	63 FR 10440
U.S. Army Space and Missile Defense Command's Technical Center	85 FR 3339
Naval Air Systems Command Warfare Centers	76 FR 8530
Naval Facilities Engineering Command Systems Engineering and Expeditionary Warfare Center	86 FR 14084
Naval Information Warfare Centers, Atlantic and Pacific	76 FR 1924
Naval Medical Research Center	Not yet published
Naval Research Laboratory	64 FR 33970
Naval Sea Systems Command Warfare Centers	62 FR 64050
Office of Naval Research	75 FR 77380

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